

**CHARLOTTESVILLE POLICE CIVILIAN OVERSIGHT BOARD
OPERATING PROCEDURES**

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CHARLOTTESVILLE POLICE CIVILIAN OVERSIGHT BOARD OPERATING PROCEDURES

ARTICLE 1

AUTHORITY

These Operating Procedures enact the powers, authorities, and responsibilities of the Charlottesville Police Civilian Oversight Board (The Board) as defined in amended Article XVI, Sections 2-450 through 2-468 of Chapter 2 (Administration) of the Code of the City of Charlottesville (1990), approved by the Charlottesville City Council December 20, 2021.

ARTICLE 2

PURPOSE

The purpose of the Board is to provide objective and independent civilian-led oversight of the Charlottesville Police Department (the “CPD”) in an effort to enhance transparency and trust, to promote fair and effective policing, and to protect the civil and constitutional rights of the people of the City of Charlottesville. The Board’s functions, as outlined below, shall pursue the following principles and objectives:

- A.** Ensuring that police officers act with integrity and treat every person with equal dignity;
- B.** Empowering and inspiring self-governance and a culture of mutual respect;
- C.** Seeking social and racial justice;
- D.** D. Engaging in community outreach and amplifying the voices of the socially, politically, and economically disenfranchised;
- E.** Listening to and building cooperation between all stakeholders to find and develop common ground and public purpose;
- F.** Championing just, equitable, and legitimate policing policies and practices; and
- G.** Processing complaints, reviewing police practices and internal investigations, issuing findings, writing public reports, and making recommendations.

ARTICLE 3

POWERS AND DUTIES

The Board shall have the following powers and duties:

- A.** To receive, investigate, and issue findings on complaints from civilians regarding the conduct of law enforcement officers and civilian employees of the Department;
- B.** To investigate and issue findings on incidents, including the use of force by a law enforcement officer, death or serious injury to any individual held in custody, serious abuse of authority or misconduct as defined in this section, allegedly discriminatory stops, and other incidents regarding the conduct of law enforcement officers and civilian employees of the Department;
- C.** At the conclusion of any investigation conducted pursuant to paragraphs (1) and (2), above, if the Board has found that an employee has committed misconduct, to recommend disciplinary action to the Chief of Police;

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- ~~D.~~ To investigate policies, practices, and procedures of the Department and to make recommendations regarding changes to such policies, practices and procedures, ~~as set forth within Sec. 2-462 of this article;~~
- E. To review investigations conducted internally by the Department, ~~as set forth in Sec. 2-458 of this article;~~ and to issue findings regarding the accuracy, completeness, and impartiality of the investigations and the sufficiency of any discipline resulting from such investigations;
- F. To request reports of the annual expenditures of the Department, and to make recommendations to the City Council concerning future appropriations;
- G. To make public reports on the activities of the Board, including investigations, hearings, findings, recommendations, determinations and oversight activities;
- H. To hold hearings and, if, after making a good faith effort to obtain the voluntary attendance of witnesses and the production of books, papers, and other evidence necessary to perform its duties, the Board is unable to obtain such attendance or production, to apply to the Circuit Court for the City of Charlottesville for a subpoena compelling the attendance of such witness or the production of such books, papers and other evidence; and
- I. To undertake other duties, as reasonably necessary, for the Board to effectuate its lawful purpose as provided for in this article, to effectively oversee the Department.

ARTICLE 4

BOARD MEMBERSHIP

- A. **Appointment and Terms.** Board members will be appointed by the City Council, after an open application process, for staggered three-year terms, as described in Section 2-453 of the enabling ordinance.
- B. **Composition.** The Board shall consist of up to seven voting members and one nonvoting member. The Board shall reflect the demographic diversity of the City of Charlottesville, with at least three members appointed from residents of public housing or who come from historically disadvantaged communities that have traditionally experienced disparate policing. The Council may appoint one member who represents an organization that seeks racial or social justice on behalf of historically disadvantaged communities. The nonvoting member shall have policing expertise or experience.
- C. **Conditions for Removal.** Board members serve at the pleasure of the City Council and may be removed for:
 - i. Disclosure of confidential information or violation of confidentiality agreements
 - ii. Failure to report personal conflicts of interest or failure to comply with the Virginia State and Local Government Conflict of Interests Act
 - iii. Improper communications with persons having pending matters before the board
 - iv. Violation of the Virginia Freedom of Information Act
 - v. Neglect of duties as a Board member
 - vi. Violations of the Board's Code of Ethics (See Articles 34 and 35)

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- D. Resignation.** A Board member may resign at any time by doing so in writing (or by electronic means.) The resignation will take effect immediately upon notification of the Executive Director or Board Chair.
- E. Conflicts of Interest.** Board members must disclose personal or financial conflicts of interest related to matters before the Board and recuse themselves if their participation in the matter would give the appearance of conflict or would amount to a conflict as defined under the State and Local Government Conflict of Interests Act. Board members may consult the Executive Director or the Board's independent counsel for advice regarding potential conflicts of interest.
- F. Recusal for other reasons.** Board members should avoid situations in which their impartiality in rendering Board decisions may be called into question. Members should recuse themselves from any matter involving members of their own family or close personal friends, or in any other situation where they do not believe they can be impartial. Mere familiarity or casual friendship with an individual having a matter before the Board will not be automatic grounds for recusal. However, the member should not engage in any private communications with the individual while the matter is pending, nor implicitly provide advice or information outside of formal Board communications. Personal connections to parties before the Board should also be disclosed to the Executive Director. As with conflicts of interest, members should consult the Executive Director or the Board's independent counsel when they encounter a situation where their impartiality might be questioned.
- G. Election, Terms, and Duties of Officers.** The Chair and Vice Chair of the Board shall be elected at the first regular meeting of each calendar year and shall serve for terms of one year. No Board Member shall serve more than two consecutive terms as Chair. The election shall proceed as follows:
- i. The current Chair will ascertain if a quorum of the Board is present. If not, the election of officers will be postponed until the next regular meeting at which a quorum is present.
 - ii. The current Chair will open the floor to nominations for the coming year's Chair. Nominations shall remain open until no more nominations are received.
 - iii. The current Chair will then open the floor to nominations for the coming year's Vice Chair. Nominations shall remain open until no more nominations are received.
 - iv. Members may decline nominations for Board offices at any time until the members are polled.
 - v. When nominations are completed, the Executive Director shall poll the members as to which nominee they prefer for Chair. After all members of the Board have voted for Chair, the Executive Director shall poll the members as to which nominee they prefer for Vice Chair. Members may abstain from voting for Chair and Vice Chair if they choose.
 - vi. The Office of Chair and Vice Chair will be awarded to the nominees with the most votes for each office.
 - vii. The current Chair may second nominations and vote in the election of officers.
- H. Committees and Advisory Panels**
- i. Committees. The Board may establish committees and advisory panels to aid in the fulfillment of its mission. Committees may be ad hoc or permanent. Any member of the Board may propose the formation of a committee to address specific topics or tasks. Proposals should be in writing and indicate the mission and scope of the committee and duration of its activities. The Board may approve the formation of a committee by majority vote. Membership on committees shall be voluntary and limited to members of the Board.

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The members of each committee shall select a committee Chair. The committee Chair shall report periodically to the full Board regarding the activities undertaken by their committee and progress made towards their stated goals. The status of permanent committees shall be reviewed annually and may be terminated by Majority vote.

- ii. **Advisory Panels.** The Board may also establish advisory panels to expand and facilitate interactions with the public on issues related to police oversight. Members may propose the establishment of advisory panels in the same manner as for committees; proposals should describe the nature of the panel's mission and the target audience for Board outreach and, if possible, public volunteers or organizations who will be participating in the panel. The formation of advisory panels shall be approved by a majority vote of the full Board. Advisory panel members may choose a Chair, Secretary, or other leadership from among themselves; non-Board members may act in leadership positions in advisory panels, as long as such leadership does not constitute a conflict of interest.
- iii. **FOIA Compliance.** Board members serving on committees and advisory panels must adhere to all applicable requirements of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.)

ARTICLE 5

MEETINGS OF THE BOARD

- A. **Regular Meetings.** Regular Meetings shall be held once per month on a schedule that is convenient to Board members. The time and location of the meetings will be determined by consultation between the Board and the City Manager. The Board may by majority vote change the time and place of regular meetings.
- B. **Special Meetings.** Special Meetings may be called by the Board Chair or by request of any two Board members to the Chair or Executive Director.
- C. **Notice.** Public notice of regular meetings must be provided per City policy [and VA FOIA?]. Whenever possible, the Board shall provide written summaries of proposed agenda items as part of the agenda package. Public notice of special meetings must be provided at the same time as notice is provided to the Board Members.
- D. **Meeting Procedures.** Roberts' Rules of Order 12th Edition, Sec. 49:21 Rules for Small Boards shall be used as guidance for the conduct of meetings. During meetings:
 - i. Board members must be recognized by the Chair before speaking or introducing motions.
 - ii. The Chair will recognize members in order which they ask to be heard.
 - iii. The Chair may participate in discussions and vote on motions but must relinquish the gavel if he/she wishes to introduce a motion.
 - iv. The Chair will work to assure that the opinions of all members are heard and will not try to unduly influence the decisions of the Board.
 - v. Board members are expected conduct themselves civilly and respectfully.
- E. **Public Comment Period.** At least one public comment period will be held at each regular and special meeting of the Board. More than one comment period may be held at the discretion of the chair. If two or more comment periods are scheduled, the Chair may limit the subjects of comments to items on the agenda in one comment session. During public comment periods, participants will be called on in the order that they request to be recognized. Each commenter will be limited to three minutes. Individuals may ask to be recognized more than once during a meeting or during a

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comment period; such individuals may be recognized by the chair, time permitting, after all others have had one chance to speak. The Board will develop and publish guidelines for public participation during its meetings.

- F. **Minutes.** Minutes of regular and special meetings shall be taken by the Vice Chair who, however, may delegate this duty to the Executive Director. The Minutes shall include:
- i. The date, time, and location of the meeting;
 - ii. The members present and absent;
 - iii. A summary of the discussion on matters proposed, deliberated, or decided

ARTICLE 6

EXECUTIVE DIRECTOR

- A. **Appointment.** The City Manager shall appoint an Executive Director with the approval of a majority vote of the City Council.
- B. **Interview Process.** As a part of the Executive Director appointment process, the City Manager shall convene an interview panel that includes two members of the Board. If those two members recommend a candidate for appointment as Executive Director, the City Manager shall provide a written justification to the Board if a different candidate is appointed.
- i. The Board's Executive Director Interview Panel Representatives shall be appointed by the Chair.
 - ii. The Chair shall first solicit volunteers to serve in the Interview Panel. If more than two volunteers are identified, the Chair shall allow the volunteers to express their reasons for serving in the Interview Panel. After allowing all prospective volunteers to speak, the Chair shall poll the Board members, soliciting votes for each candidate in turn. Members may vote for up to two candidates each, and the candidates with the most total votes shall be elected to serve on the Interview Panel. The Board Chair may also cast votes for two candidates.
- C. **Duties.** As authorized in §2-455, the Executive Director shall support the Board in the implementation and exercise of all its functions authorized under this ordinance and to undertake or ensure the performance of specific tasks assigned by the Board, including the monitoring of investigations conducted by the Department. If authorized by the City Manager or their designee, the Executive Director may engage the services of such investigators as may be necessary to perform the Executive Director's duties to conduct or to monitor investigations. Specifically, the Executive Director shall support the Board in the areas listed below and as detailed in the Division of Labor Protocol¹ found in Appendix 1:
- | | | |
|---|---|---|
| i. <i>Board Meetings</i> | vii. <i>Subpoenas</i> | xiii. <i>Interdepartmental Relations</i> |
| ii. <i>Investigations</i> | viii. <i>Annual Expenditures</i> | xiv. <i>External Relations</i> |
| iii. <i>Disciplinary Recommendations</i> | ix. <i>Committees</i> | xv. <i>Training</i> |
| iv. <i>Auditing</i> | x. <i>Advisory Panels</i> | xvi. <i>Issue and Policy Management</i> |
| v. <i>Review</i> | xi. <i>Forums</i> | xvii. <i>Staff Management</i> |
| vi. <i>Mediation</i> | xii. <i>Commendations</i> | |

¹ The Division of Labor Protocol should be revisited every three years to ensure the Board's and Executive Director's duties and responsibilities are clearly defined and delineated accordingly.

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xviii. *Annual Report*
xix. *Strategic Vision*

xx. *Legal Compliance*
xxi. *Budget*

xxii. *Special Projects*
xxiii. *Fundraising*

D. Supervision. The City Manager shall supervise the work of the Executive Director and may delegate that responsibility to a Deputy City Manager. The City Manager's annual evaluation of the Executive Director's performance shall consider a written performance review submitted by the Board to the City Manager. The Board may request that the City Manager meet with the Board's Chair to discuss the Executive Director's performance.

- i. A written performance review by the Board shall include input and review of all Board members.
- ii. Prior to meeting with the City Manager, the Board Chair shall have a shall solicit comments from each Board member to ensure all positions are represented.

E. Vacancy. If there is a vacancy in the position of Executive Director, the City Manager or their designee may designate some other City employee who is not an employee of the Department to act as Executive Director until a new Executive Director is hired.

- i. The City Manager shall consult with the Chair to assess the needs of the Board and determine the "best fit" for "acting Executive Director".
- ii. The City Manager shall fill the position as soon as practicable but shall not delay the selection of a new Executive Director more than 6 months from the beginning of the vacancy. The City Manager shall submit a written explanation to City Council if there is a delay in the selection of the Executive Director beyond this period. The written explanation shall specify an action plan to expedite the selection of the Executive Director.

ARTICLE 7

JURISDICTION

The Board's jurisdiction extends to all citizen complaints alleging misconduct by sworn officers and civilian employees of the Charlottesville Police Department, irrespective of duty status. For purposes of this Article, "misconduct" is defined as any conduct actionable under CPD General Orders 517.00 (Disciplinary Procedures) Parts 1 and 2, 400.05 (Bias-Based Policing), and 400.00 (Code of Conduct), as well as any other violation of procedures and policies applying to police-civilian interactions. The Board may also independently investigate incidents, including the use of force by a law enforcement officer, death or serious injury to any individual held in custody, or serious abuse of authority or misconduct, allegedly discriminatory stops, and other incidents regarding the conduct of law enforcement officers and civilian employees of the Department.

ARTICLE 8

STANDING TO FILE COMPLAINTS AND REVIEW REQUESTS

A. Complaints. The following have standing to have their complaints alleging misconduct by sworn officers or civilian employees considered by the PCOB:

- i. Any individuals directly affected by incidents of police misconduct (who were physically present and in physical or verbal contact with police during the alleged misconduct)
- ii. Designated representatives of individuals affected by police misconduct
- iii. Parent or guardian of minor alleging police misconduct or custodians of an individual with diminished mental capacity
- iv. Any witness to incidents of police misconduct who was present during the alleged misconduct

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- B. Review Requests.** Any individual whose complaint has been investigated by the Charlottesville Police Department had standing to file a review request.
- C. Timeliness.** Complaints must be filed with one year (365 days) of any incident of alleged police misconduct. Review requests must be filed within 75 days of the issuance of a Closure Letter by the Charlottesville Police Department. The CPD must make a good faith effort to ensure that the closure letter has been received by the complainant. The Board may extend the above deadlines for cause, as stated in § 2-458(D) of the enabling ordinance.
- D. Permission to file on behalf of another individual.** Representatives filing complaints or review requests on behalf of others must have written approval to do so from the individual directly affected by police misconduct. The Executive Director shall ascertain if such approval has been given.

ARTICLE 9

FILING COMPLAINTS

The process, as set out in detail in a Standard Operating Procedure established by the City Manager in consultation with the Chief of Police and the Executive Director, shall permit Complainants to file Complaints online, in writing, or orally. The SOP permits the Complainant to choose whether the Complaint will be investigated by the Board only or by the Department with monitoring by the Executive Director. Regardless of how a Complaint is received, it shall be promptly provided to the Department and to the Executive Director. The Executive Director, in consultation with the Board, may decline to investigate a Complaint.

A. Exclusions. The Board shall not consider complaints, incidents, claims or issues involving the following:

- i. Any incident that occurred more than one year before the filing of the Complaint (unless the Board with the concurrence of the City Manager determines that there is good cause to extend the filing deadline);
- ii. A matter that was the subject of an investigation where more than seventy- five (75) days has elapsed since the Department sent notice to the Complainant informing the Complainant that the Department's Internal Affairs investigation is complete (unless the Board determines that there is good cause to extend the filing deadline as allowed by Section 2-458(d) of the enabling ordinance);
- iii. Matters that are the subject of a pending criminal proceeding in any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a Notice of Claim or a filed complaint), or any pending City of Charlottesville grievance proceeding;
- iv. Any financial management related issue;
- v. Any complaint, incident, claim or issue where the Complainant requests that the Board not have access to Internal Affairs or investigative files related to their case;
- vi. Any complaint, incident, claim or issue that has previously been the subject of an investigation by the Board, unless substantial new information has come to the attention of the Board;
- vii. An allegation of misconduct only by employees of law enforcement agencies other than the Department. Such complaints should be referred to the appropriate law enforcement agency (see Article 14);
- viii. An allegation of conduct that does not violate the Charlottesville Police Policies and Guidelines, Disciplinary Orders, or Code of Conduct;

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- ix. Any other claim outside the scope of the Board's authority expressly set forth within this Ordinance.

B. Exceptions to time limits. The Board may review investigations beyond the time limits specified in subsections (c)(1) and (c)(2) if:

- i. The board determines that there is good reason for doing so, or
- ii. As part of an audit taking place under Section 2-462(b).

C. Refusal to Investigate

In some cases, a preliminary review of the publicly or immediately available evidence may disclose that a complaint lacks merit, and a full investigation would be prejudicial to the complainant and to the public. In those instances, the Executive Director may advise the Board that such investigation will not accomplish the goals of the Board. In those cases, the complainant shall be notified in writing that the Board will not be investigating, provided with the reasons for the decision, and provided the opportunity to have the complaint sent to CPD for investigation. In determining whether to decline an investigation, the following factors shall be considered:

- i. The veracity of the allegations as presented in any available video evidence (i.e. BWC, dash cam footage, cell-phone recordings, surveillance videos, etc.)
- ii. Credible oral or written testimony of an independent third-party (eye) witness that refutes the allegations as presented by the complainant.
- iii. Other relevant information related to the circumstances or occurrence of the civilian-police interaction

ARTICLE 10

INITIAL REVIEW OF COMPLAINTS

A. Upon the receipt of a complaint, the Executive Director shall create a case file for the complaint, designate a number for the complaint, enter the case in a database, and preserve any body-worn camera evidence.

B. The Executive Director may request additional information from the complainant, and collect any evidence necessary for the initial review.

C. The Executive Director shall screen each complaint and shall take one of the following actions:

- i. Decline to investigate the complaint;
- ii. Refer the complaint to the Commonwealth Attorney for possible criminal prosecution;
- iii. Refer the complaint to mediation per Article 27;
- iv. Refer the complaint to investigation;
- v. Refer the complaint to the CPD for investigation because the complaint falls outside of the authority of the Board to review;

ARTICLE 11

WITHDRAWAL OF COMPLAINTS

A complaint may be withdrawn orally or in writing from further consideration at any time by the complainant. A withdrawal made orally shall be memorialized as soon as practicable with the date and reason for the withdrawal (if provided).

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ARTICLE 12

**REFERRALS TO THE
COMMONWEALTH ATTORNEY**

A. If the Executive Director determines that the misconduct alleged in the complaint or disclosed by investigation may be criminal in nature, he or she shall refer the case to the City of Charlottesville Commonwealth Attorney for possible criminal prosecution.

B. The Executive Director shall give written notification of such referral to the Board, the Chief of Police of the CPD, the City Manager, the City Attorney, the complainant, and subject officer(s). If requested by the Commonwealth Attorney, the Executive Director shall delay notification of the referral to one or more of these parties until the Commonwealth Attorney determines that notification is appropriate.

C. The Executive Director shall transmit copies of all relevant files to the Commonwealth Attorney, maintain a record of each referral, and record the disposition of each referred matter.

D. If the Commonwealth Attorney declines in writing to prosecute, then the Executive Director may take any such action under §s-452 (c), as applicable. A copy of the declination letter shall be included in the case file and provided to the Board, the Chief of Police of the CPD, the City Manager, the City Attorney, the complainant, and subject officer(s).

ARTICLE 13

**REFERRALS TO THE SURROUNDING
JURISDICTIONS/AGENCIES**

If the Board receives complaints regarding the conduct of non-CPD officers and employees, the Executive Director shall notify the complainant of the lack of jurisdiction to investigate and forward the complaints to the appropriate agency with the permission of the complainant.

ARTICLE 14

INVESTIGATIONS (GENERAL)

The standards and principles in this section, have been guided and adapted in part from the Quality Standards for Investigations (QSI) which provide a framework for conducting high-quality investigations for Offices of Inspector General (OIGs) affiliated with the Council of the Inspectors General on Integrity and Efficiency (CIGIE). Additionally, guidance has been incorporated from the National Association for Civilian Oversight of Law Enforcement (NACOLE) and affiliated practitioners and agencies.

A. Direct Investigations or Delegation of Investigations

The Executive Director shall be responsible for directly investigating complaints and incidents or engaging independent investigators as authorized in §2-455(c) and §2-458(g).

In utilizing the discretion to directly investigate or delegate, the Executive Director shall consider the following factors:

- i. Complexity of the investigation (i.e. number of allegations, number of officers involved, seriousness of the allegations at hand, etc.)

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- ii. Public interest in the case at hand
- iii. Timeliness assessment (i.e. whether the investigation can be completed in a time-frame that does not cause undue burden for the execution of the other duties of the Executive Director)
- iv. Fiscal impact- availability of funds in the operating budget at the time the complaint is received

B. General Standards

The Executive Director will incorporate the standards and principles outlined here into an Investigations Manual within 90 days of passage of these articles, which shall be revisited every 3 years to ensure it represents the latest standards in the field.

The general standards for Board investigations are:

i. Qualifications

Individuals assigned to conduct the investigative activities must collectively possess professional proficiency for the tasks required.

This standard places upon the Board, via the Executive Director, the responsibility for ensuring that investigations are conducted by personnel who collectively have the knowledge and skills required to perform the investigative activities.

ii. Independence

In all matters relating to investigative work, the Board must be free, both in fact and appearance, from impairments to independence; must be organizationally independent; and must maintain an independent attitude.

This standard places upon the Board, via the Executive Director, the responsibility for maintaining independence, so that decisions used in obtaining evidence, conducting interviews, and making recommendations will be impartial and will be viewed as impartial by knowledgeable third parties. There are three general classes of impairments to independence: personal, external, and organizational.

iii. Due Professional Care

Due professional care must be used in conducting investigations and in preparing related reports.

This standard requires the Board, via the Executive Director, a constant effort to achieve quality and professional performance. It does not imply infallibility or absolute assurances that an investigation will reveal the truth of a matter.

In addition to the general standards in the field, the Board will also adhere to the requirements as outlined in §2-458(a)-(e).

C. Compliance

Any investigation shall comply with all federal, state, and local laws as outlined in §2-458(a).

D. Compelled Statements

The Board may not compel a statement from any Department employee.

This prohibition does not preclude the Board requesting voluntary statements from subject officers or other employees of the Department in the course of investigations of complaints or incidents, or from separately

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applying for a subpoena to the Circuit Court for the City of Charlottesville. If a subpoena is obtained, the Circuit Court for the City of Charlottesville can compel attendance of witnesses and the production of books, papers, and other evidence necessary to perform the investigative duties pursuant to §2-452(c) & §2-458(f).

E. Exclusions.

The Board shall not investigate complaints, incidents, claims or issues listed under Article 9.A.

F. Exceptions to time limits.

The Board may review investigations beyond the time limits specified in §2-458 subsections (c)(1) and (c)(2) if: (1) The board determines that there is good reason for doing so, or (2) As part of an audit taking place under Section 2-462(b).

- i. For cases that are beyond the time limits, the Executive Director will assist the Board by interviewing the complainant to determine the reasons for the late filing.
- ii. The Executive Director shall deliver the reasoning as communicated by the complainant via a written Memorandum of Good Reason (MGR).
- iii. The Board shall consider whether the complainant had a “good reason” at the next regular business meeting of the Board. By a two-thirds vote, the Board can certify that there is “good reason” and submit the waiver of the time limit exception to the City Manager.
- iv. Upon receiving the two-thirds vote, the Board -via the Executive Director- shall submit the waiver request to the City Manager who shall decide on the waiver within 72 hours. If the City Manager does not respond to the waiver request within 72 hours, the request shall be deemed to have been granted.

G. Suspension of Investigations

If a Complaint asserts criminal conduct by an employee of the Department, or if at any point in an investigation of a Complaint or Incident the Board becomes aware that an employee may have committed a criminal offense, the Board shall:

- i. Suspend the investigation and notify the Chief of Police and Commonwealth's Attorney of the alleged conduct, ensuring that no statements obtained from the Police Department employee(s) whose actions are the subject of the matter are shared with criminal investigators or any prosecuting authority except in accordance with applicable law; and
- ii. Evaluate, in consultation with Board legal counsel, the City Attorney, and the Commonwealth's Attorney, whether competing public interests and civil rights involved permit the resumption of continued, parallel investigation by the Board

ARTICLE 15

INVESTIGATIONS OF COMPLAINTS

A. The Board's authority to actively monitor investigations of complaints employee misconduct by the Department is derived from §2-452© and §2-457(a).

B. The investigation shall be completed in an expeditious and efficient manner. Good faith efforts will be made to obtain the voluntary attendance of witnesses and the production of relevant evidence.

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- i. If the complainant refuses or fails to cooperate in the investigation, the Executive Director may dismiss the complaint.
- ii. If the subject officer, or an employee of the CPD refuses or fails to cooperate in the investigation, the Executive Director shall notify the relevant Chief of Police in writing.

ARTICLE 16

INVESTIGATIONS OF INCIDENTS

A. The Board's authority to investigate and issue findings on incidents, including the use of force by a law enforcement officer, death or serious injury to any individual held in custody, serious abuse of authority or misconduct as defined in the Ordinance, allegedly discriminatory stops, and other incidents regarding the conduct of law enforcement officers and civilian employees of the Department is derived from §2-452(c) and §2-457(b).

- i. These incidents do not require a complaint to be filed and the Board, *sua sponte*, may investigate incidents fitting the criteria.
- ii. These matters will follow the same investigatory protocol as investigations of complaints with the addition of the Preliminary Investigative Report as referenced in §2-458(h)
- iii. The Board shall authorize an investigation of incidents by a majority vote.

ARTICLE 17

**INVESTIGATIONS OF POLICIES,
PRACTICES, AND PROCEDURES**

A. The Board's authority to investigate policies, practices, and procedures of the Department through the Executive Director and to make recommendations regarding changes to such policies, practices and procedures, as set forth within Sec. 2-462 of the Ordinance is derived from §2-452(c).

- i. The Executive Director may seek to contract independent contractors and firms through competitive and non-competitive procurements to undertake investigations under this subsection.
- ii. The completion of retrospective examinations and audits of patterns in Internal Affairs investigations, arrest and detention, and other public-police interactions shall not preclude the Board from exercising the Powers and Duties under this subsection.
- iii. The Board shall authorize an investigation of policies, practices, and procedures by a majority vote.

B. The investigation shall be completed in an expeditious and efficient manner. Good faith efforts will be made to obtain the voluntary attendance of witnesses and the production of relevant evidence.

ARTICLE 18

**MONITORING OF
INVESTIGATIONS OF
COMPLAINTS**

A. The Executive Director's authority to actively monitor all investigations of Complaints of employee misconduct conducted by the Department is derived from §2-452(c) and §2-457(a).

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B. While monitoring investigations, the Executive Director shall have access to records and witnesses to the same extent as the Department, subject to the limitations or requirements set out in this Ordinance. Such monitoring may include reviewing the:

- i. Investigative plan of the Department;
- ii. Reviewing with the Department any records within the Department's digital evidence management system;
- iii. Reviewing with the Department any pertinent law enforcement records within the Department's Records Management System;
- iv. Observing any and all real-time interviews of witnesses with the Department;
- v. Reviewing all recorded interviews which the Executive Director chooses not to attend in real time;
- vi. Providing feedback during the interview to be relayed to Department staff conducting the interview;
- vii. Providing feedback to Department staff in determining next steps in the investigative process; and reviewing facts gained from investigation with Department staff.

C. For active investigations, the Executive Director shall be limited in their participation to the same extent the Department is limited in its participation in such investigations. The Executive Director may monitor the Department's administrative investigation of employee misconduct after the close of the active investigation in the same manner as all other investigations of employee conduct handled by the Department as described in this section.

D. When monitoring Department investigations, during the pendency of the investigations the Executive Director shall not disclose information to the Board, any Board member, or any person other than as authorized in writing by the Chief of Police or the City Manager.

ARTICLE 19

SUBPOENAS

A. Subpoenas

If, after making good faith efforts, the Executive Director is unable to obtain the voluntary attendance of witnesses and the production of books, papers, and other evidence necessary to perform the investigative duties, the Executive Director, pursuant to §2-452(c) & §2-458(f), may recommend that the Board apply to the Circuit Court for the City of Charlottesville for a subpoena compelling the attendance of such witness or the production of such books, papers and other evidence.

- i. The Executive Director shall deliver a Memorandum of Subpoena Recommendation (MSR) to the Board within 48 hours after the last effort to obtain voluntary attendance of witnesses or production of evidence.
- ii. Upon receiving the MSR, the Board Chair shall distribute it to the Board and request that the Board convene for a Special meeting. The meeting will be publicly noticed per VFOIA public meeting requirements.

C. Special Meeting- Subpoena

If after receiving the MSR from the Executive Director and the presentation at the Special Meeting, the Board determines that there is evidence (including witnesses) within the control of the Police or other city

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Department that the Board is unable to obtain voluntarily, the Board by two-thirds vote may direct the Executive Director, on behalf of the Board, to apply to the Charlottesville Circuit Court for a subpoena.

- i. If a two-thirds (2/3) vote is not achieved, the Executive Director will immediately continue with the investigation with the information collected up to that point.
- ii. If a two-thirds (2/3) vote is achieved, the Executive Director will work with the Independent Counsel to apply for the subpoena within 72 hours of the vote. A delay in the application of the subpoena beyond this time period shall be documented in writing and included in the case file.

If after receiving the MSR from the Executive Director and the presentation at the Special Meeting, the Board determines that there is evidence (including witnesses) not within the control of the Police or other city Department that the Board is unable to obtain voluntarily, the Board by two-thirds vote may direct the Executive Director, on behalf of the Board, to apply to the Charlottesville Circuit Court for a subpoena.

D. Service of a subpoena

Upon approval of the subpoena by the Circuit Court, the Executive Director shall immediately deliver the subpoena to the Chief of Police or City Manager. The service of a subject officer, witness officer, or other City employee is deemed effective by service on the Chief of Police or his/her designee who shall deliver the subpoena to the relevant officer or CPD employee or by the delivery of the Subpoena to the City Manager.

ARTICLE 20

DISPOSITIONS OF INVESTIGATIONS

At the conclusion of the investigation of a complaint or incident, the assigned Investigator shall forward the file with a report of investigation to the Executive Director. The Executive Director shall take one of the following actions:

- i. Direct the investigator to undertake additional investigation;
- ii. Refer the complaint to the Commonwealth Attorney's Office where there is a criminal element to the allegations and suspend the investigation until criminal matter is resolved;
- iii. Certify the results of the Investigative Report for complaints pursuant to §2-457(a);
- iv. Certify the results of the Preliminary Investigative Report for investigations of incidents as provided in §2-457(b) and §2-458(h);
- v. If an in Investigative Report or Preliminary Investigative Report is certified, be the Executive Director, he/she shall then submit the report to the Board, the City Manager, City Attorney, Chief of Police, employees identified as having committed employee misconduct, and to and the complainant.

Article 21

Hearings - General

A. Hearing Examiner. Hearings that are convened to address investigations of complaints and incidents under Section 2-457 and complaint review requests under Section 2-459 of the Board's enabling ordinance shall be presided over by Hearing Examiners. Hearing Examiners may have professional experience in mediation or other relevant area of jurisprudence or experience. Hearing Examiners shall be

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engaged by the Executive Director. In selecting Hearing Examiners, the Executive Director shall take due precautions to avoid bias, conflict of interest, or the appearance thereof.

- i. Duties of Hearing Examiner. A Hearing Examiner shall referee the hearing such that the structure and format of the hearings outlined in the structure and format sections in Articles 23-25.
- ii. The Hearing Examiner shall conduct the hearing unless a majority of Board votes that the Chair will preside. While the Hearing Examiner is responsible for ensuring the orderly proceeding of the hearings, the Board is primarily responsible for eliciting evidence from the hearing.

B. Advisors/Representatives. Right to advisor/representative of choice. Throughout the Hearing process, all parties may consult with and be represented by legal counsel or another individual advisor/representative of their choosing at any meeting or proceeding related to the Hearing process. A representative is not required and the complainant and subject officer are each responsible for insuring their advisor's presence at the hearing.

C. Interpreter. Any party requesting an interpreter shall provide at least 14 working days' written notice of this request to the Executive Director.

D. Continuance and Delay. The Executive Director may continue the hearing due to the unanticipated unavailability of a witness or representative if good cause is shown, or due to the unavailability of an interpreter. Should the subject officer fail to appear within 30 minutes after the scheduled time for the hearing, the hearing will proceed and the allegations may be sustained, absent good cause.

E. Waiver of Hearing. The complainant may indicate in writing to the Executive Director that they waive a hearing on their complaint within 10 calendar days of being notified of the hearing date.

ARTICLE 22.

PRELIMINARY HEARING CONFERENCE

The Board may, at its discretion, convene a Pre-Hearing Conference, during which preliminary matters related to the Hearing are discussed and/or resolved. The parties will be provided advance written notice of the date, time, and location of the pre-hearing conference.

ARTICLE 23.

FACTFINDING HEARINGS

A. Purpose. Fact-finding hearings shall be open to the public and conducted for the board to understand the allegations of misconduct and the facts as determined during the board's investigation and as presented by the involved parties.

B. Standard of evidence and findings. The Hearing and related investigation are neutral fact-gathering processes. Findings shall be made based on a preponderance of the evidence.

C. Rules of evidence. The hearings need not be conducted according to technical rules of evidence. Relevant evidence shall be admitted, subject to the exception below, if it is the sort of evidence on which

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reasonable persons are accustomed to rely in the conduct of serious affairs. The Hearing Examiner may exclude irrelevant and unduly repetitious evidence.

- i. The following evidence must be excluded:
 1. Information or documents about the complainants' past encounters with the police;
 2. The complainant's criminal record; and
 3. Records involving a juvenile complainant, unless expressly permitted by the juvenile and their guardians.
- D. Structure and Format. The fact-finding hearing shall proceed in the following order:
 - i. Preliminary Information. The Hearing Examiner shall:
 1. Call the hearing to order; Explain the purpose of the hearing;
 2. Give background on the objectives and procedures of the hearing
 3. Review possible decisions; and
 4. Review the applicable standards of evidence.
- E. Presentation of Evidence. Once the preliminary information stage is completed, the Hearing Examiner shall conduct the hearing in the following order and manner:
 - i. Statements. The Hearing Examiner shall ask for statements from, in order:
 1. The board's investigator, who shall present a summary of the complaint and a summary of their investigation of the complaint;
 2. The complainant and their representative, if applicable;
 3. Witnesses identified by the complainant, if any; and
 4. The subject officer, if attending and voluntarily choosing to make a statement.
 - ii. Use of evidence. The parties may refer to any relevant documentary evidence and exhibits during their statements.
- F. Presence of witnesses. Witnesses may not be present during the statements of the parties.
- G. Questions. The board members may ask questions of the parties and witnesses at the conclusion of the parties' and witnesses' statements. The Hearing Examiner shall recognize each board member who indicates they want to ask a question. Once all board members have completed their questions, the parties may submit questions to ask about or clarify a point the board members may have missed, confused, or misstated. The parties may request time, not to exceed one hour, to determine their questions.
- H. Orderly business of the hearing. The Hearing Examiner shall ensure that the hearing proceeds in an orderly fashion. Participants who repeatedly interrupt the orderly business of the hearing may be required to leave the hearing by the Hearing Examiner.
- I. Board legal counsel consultation. The City Attorney's opinion will be sought whenever the interpretation of the City of Charlottesville Ordinance is contested and is pivotal in the case, unless such

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issue(s) create a conflict of interest. If the issues create a conflict of interest, the board will seek the opinion of its independent legal counsel. The Board shall seek the opinion of their independent legal counsel when a case raises substantial legal issues of first impression outside of the City of Charlottesville ordinance.

- i. If the Board needs additional evidence or an opinion from legal counsel or the City Attorney to reach its findings, it may continue the deliberations phase of the hearing to a future date, not to exceed 14 calendar days, if the necessary counsel is unavailable.

J. Deliberations. The Hearing Examiner shall close the fact presentation portion of the hearing and open the board's deliberations of the finding, unless the board votes to deliberate in a later meeting due to the length of the hearing or complexity of the case. A separate meeting for deliberations will take place no later than fourteen calendar days from the hearing. The Board shall not consider any information not received in the Hearing Packet or during the hearing. In conducting the deliberation, the Hearing Examiner shall:

- i. Guide the discussion to elicit the Board's finding in the case by asking each Board member to briefly state their opinions on each evaluation criterion. Board members may defer responding or simply state their agreement with previous speakers. After each member has had opportunity to comment on each criterion, the Examiner shall open the floor to additional discussion as appropriate in his judgement;
- ii. Elicit closing remarks and recommended finding from the investigator and questions from the Board for the investigator;
- iii. Present the findings options; and
- iv. Poll the Board on their preferred findings.

K. Findings. The board may choose to find:

- i. Complaint not sustained, for one of two reasons:
 - 1. There is insufficient evidence to sustain the Citizen Complaint; or
 - 2. The facts alleged in the Citizen Complaint are true, but do not constitute Misconduct by the Subject Officer because the Subject Officer's actions were lawful, justified, and proper;
- ii. Complaint sustained. A complaint shall be sustained when the Oversight Board determines that:
 - 1. The facts alleged in the Citizen Complaint are true; and
 - 2. The Subject Officer's actions were not lawful, justified, and proper.
- iii. This decision shall be reached by majority vote of a quorum of Board members in open session.

L. Serious breach of departmental and professional standards. Upon the entering of a sustained finding, the Executive Director shall open the discussion as to whether the officer's conduct constituted a serious breach of departmental and professional standards to determine if the Board may make disciplinary recommendations. The board may consult with a representative from the Department and review the applicable department and professional standards. The board may vote to conduct this portion of the

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deliberations on another date, not to exceed 14 days from the date of the fact-finding hearing, to provide time for the board members to become familiar with the applicable department and professional standards or other information required to understand complex cases.

M. Findings Report and Notification.

- i. Within 7 calendar days of the last date of the hearing, the Executive Director shall inform the complainant and subject officer, in writing, whether the allegation was sustained or not sustained. Notice to both shall include whether any of the sustained allegations were found to be a serious breach of departmental and professional standards. Notice to the subject officer will include their ability to file a grievance through Charlottesville's grievance procedure subsequent to further action by the Department, if applicable.
- ii. Within 10 calendar days of the last date of the hearing, the Executive Director shall submit a Findings Report, together with the Hearing Packet, which shall include all findings made by the Board, to the City Manager and the Chief of Police.

ARTICLE 24

REVIEW HEARINGS

A. Purpose. Review hearings shall be conducted for the board to analyze the sufficiency (thoroughness, completeness, objectivity, impartiality, and accuracy) of the Internal Affairs Unit's investigation of a complaint and its findings. A Department IA representative shall be present at every hearing.

B. Standard of evidence and findings. The board may find that CPD IA investigation was or was not sufficient based on a preponderance of the evidence of the complaint presented at the hearing and on professional investigation standards.

C. Structure and Format. The review hearing shall proceed in the following structure:

- i. Preliminary Information. The Hearing Examiner shall relay the same preliminary information as required for fact-finding hearings.
- ii. Presentation of Investigation/Evidence. Once the preliminary information stage is completed, the Hearing Examiner shall ask for statements from, in order:
 1. The Executive Director, who shall present a summary of the complaint, the IA investigation of the complaint, and review the basis for the IA finding;
 2. The complainant and their representative, if applicable, either of whom may summarize the complainant's experience during the incident and the effect of that experience on the complainant;
 3. Witnesses identified by the complainant, if any; and
 4. The subject officer, if attending and voluntarily choosing to make a statement.

D. Questions of the parties. The Hearing Examiner shall adhere to the same rules for questions as required in fact-finding hearings. Additionally, the parties may ask questions directly to the Department IA representative present.

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E. Orderly business of the hearing. The Hearing Examiner shall adhere to the same rules for the orderly business of the hearing as required in fact-finding hearings.

F. Deliberations. The Hearing Examiner shall close the fact presentation portion of the hearing and open the board's deliberations of the finding. The Board shall consider the following options for a finding:

- i. The Board concurs with the findings of the Charlottesville Police Department investigation; or
- ii. The Board advises the City Manager that the CPD investigation's findings are not supported by the information reasonably available to the CPD and make further recommendations to the City Manager concerning disposition of the Review Request; or
- iii. The Board advises the City Manager that the CPD investigation is incomplete or unsatisfactory and provides the specific reasons for this finding.

G. The Hearing Examiner shall conduct the deliberations in the same manner as they conduct the fact-finding hearing deliberations.

H. Once the board has made its finding, the Executive Director shall ask the Board members whether the information presented at the hearing suggests that Board should make policy recommendation(s) to the Chief of Police and City Manager.

I. Serious breach of departmental and professional standards. Upon entering any finding the Executive Director shall open the discussion as to whether the officer's conduct constituted a serious breach of departmental and professional standards to determine if the Board may make disciplinary recommendations or if the Department disciplined the officer appropriately.

ARTICLE 25

RECORD OF HEARING

The Board shall make an audio or video recording of all hearings that shall serve as an official record. The Board shall provide a transcript of the proceedings to any party that requests it.

ARTICLE 26

DISCIPLINARY MEETING

A. Purpose. Should the board find that a sustained complaint constituted a serious breach of departmental or professional standards, the Board shall meet to determine disciplinary recommendations to make to the Department no later than 30 calendar days from the last date of the fact-finding or review hearing. These recommendations may pertain to policies and procedures and/or the subject officer to disincentivize similar future misconduct. In making such recommendations, the Board may review policies, practices, and procedures of the Department, including written policies, procedures, and standing orders.

B. Structure. The board's Executive Director shall provide a written report to the board and make a presentation of the report, which shall include a summary of the following:

- i. The opinion of the officer's direct supervisor;
- ii. The opinion of the complainant;
- iii. The opinions of witnesses, if appropriate;

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- iv. The opinion of the officer, if they wish to participate;
 - v. Prior sustained community member complaints against the officer; and
 - vi. Which section of CPD's disciplinary matrix pertains to the wrongful conduct.
- C. Notice to officer. Prior to the meeting, the Executive Director shall have notified the officer of the meeting and of the range of potential disciplinary actions. The officer may submit a written statement to the Executive Director to be considered during the meeting.
- D. Recommendations. All recommendations of the Board shall be established by majority vote of a quorum of Board members. The recommendations shall be publicly announced unless the Board specifically finds a compelling reason to impose confidentiality consistent with law. The Board will submit disciplinary recommendations to CPD and the City Manager in writing within 10 calendar days from the date of the disciplinary meeting.

ARTICLE 27

MEDIATION OF COMPLAINTS

A. As authorized by § 2-460 and § 2-468, the Board may refer complaints to mediation. Mediation is a way for the complainant and the subject officer to meet face-to-face with a neutral third party in an attempt to resolve their differences. The Board shall be permitted, through the Executive Director, to contract for mediation services. In considering contractors for mediation, the Board shall consider vendors in the following order:

- i. Existing ADR or mediation contracts the City of Charlottesville currently has with other departments like the Office of Human Rights;
- ii. Cooperative agreements. Cooperative purchasing can be an important alternative means to secure necessary goods and services by aggregating volume and reducing administrative overhead. The City engages in cooperative purchasing in a manner that ensures compliance with applicable laws; considers price reasonableness; considers participation of local vendors; and with a full review of both the requirement and the contract under consideration;
- iii. Recommendations of NACOLE affiliated agencies;
- iv. Formal and informal procurements through RFPs/RFQs

B. Upon receiving the complaint form, the Executive Director shall explore the eligibility for mediation referral and submit Memorandum of Mediation Referral (MMR) to the Board by its next business meeting.

In selecting a case for mediation, the Board shall consider:

- i. Amenability or willingness of parties to participate. The Executive Director may consult directly with the complainant and the subject officer to ascertain amenability.
- ii. Seriousness of allegations. Use-of-force allegations shall be ineligible for mediation.
- iii. Officer Complaint History. Cases involving officers with a history of citizen complaints shall be ineligible for mediation. No case will be referred for mediation if the officer has been named in three citizen complaints in the past 12 months.

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During this period the complaint will receive a “Suspended” status until the Board renders a decision on the referral. By a majority vote from the Board, the Executive Director will refer the complaint to mediation. The Executive Director shall then notify the complainant and the subject officer of the time, date and location of the mediation session. The complaint will be “Suspended” during mediation process until the mediation completes.

C. Once the matter has been referred to mediation, if the complainant fails to participate in good faith in the mediation process, the Executive Director may take any such action under Article 10 as applicable.

D. If the subject officer refuses to participate in good faith in the mediation process, the Executive Director shall notify the Chief of Police. In addition, the Executive Director may take any such action under Article 10 as applicable.

E. The mediation session will involve the complainant, the subject officer, the mediator and an interpreter, if requested. In the case of a minor or incompetent adult, a parent, legal guardian or personal representative must be present. In appropriate cases arising from the same set of facts, more than one complainant and more than one subject officer may be asked to participate in the same mediation session. No other person may be present or participate in mediation sessions, except as determined by the mediator to be required for a fair and expeditious mediation of the complaint.

F. No oral or written statement made during the mediation process may be used by the Board, the CPD or the City as a basis for any discipline or recommended discipline of any subject officer or officers, or in any civil or criminal litigation, except as otherwise provided by the rules of court or the rules of evidence.

G. The parties and mediators shall not disclose to anyone oral or written statements made during the mediation session for any reason, including any statements made or documents prepared for the mediation procedure by any party, attorney or representative for any party or other participant. Parties who attend mediation sessions will be required to sign a confidentiality agreement submitting to these terms.

H. The parties shall not subpoena the mediator, or documents or records submitted to the mediator, for any later judicial or administrative proceedings related to the dispute, and the mediator shall not voluntarily testify on behalf of any party at any subsequent proceeding.

I. The mediation session(s) will continue as long as the mediator believes it may result in the resolution of the complaint, except that it may not extend beyond thirty (30) days from the date of the initial mediation session without the approval of the Executive Director.

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J. If mediation resolves the complaint, then resolution of the complaint shall be evidenced by a written agreement signed by the mediator, the complainant and the subject officer.

K. The mediator shall provide copies of the mediation agreement to the parties and the Board. The Board shall place a copy of the mediation agreement in the complaint file. The Board shall send notification of case resolution by mediation to the subject officer, complainant, and CPD.

L. If the mediation does not resolve the complaint, the Executive Director may take any such action under Article 10 as applicable.

ARTICLE 28

AUDITING

A. The Executive Director's authority to conduct audits is derived from §2-462(b).

B. The Board may direct the Executive Director on its behalf to conduct retrospective examinations and audits of patterns in Internal Affairs investigations, arrest and detention, and other public-police interactions. The Board may request information from the Department, may seek subpoenas as authorized above, and may conduct such an investigation as is necessary to permit the Board to perform the audit.

- i. The Executive Director may seek to contract independent contractors and firms through competitive and non-competitive procurements to undertake audits under this subsection.
- ii. The completion investigation of policies, practices, and procedures of the Department through the Executive Director and to make recommendations regarding changes to such policies, practices and procedures, as set forth within Sec. 2-462 of the Ordinance shall not preclude the Board from exercising its other Powers and Duties under this subsection.
- iii. The Board shall authorize audits by a majority vote.

ARTICLE 29

PEACEFUL ASSEMBLIES MONITORING

As empowered by §2-452(c.)-9, which permits the Board "To undertake other duties, as reasonably necessary, for the Board to effectuate its lawful purpose as provided for in this article, to effectively oversee the Department," the Board may monitor and evaluate CPD's handling of, and response to, peaceful assemblies, as referenced in § 18-35, held on City streets, sidewalks, or other public ways, or in City parks, as defined by City of Charlottesville Code § 18-36. The Board may seek to enlist volunteers trained by the Board to participate.

A. NOTIFICATION. CPD shall notify the Board of any peaceful assemblies where CPD officers will be deployed. Notification should be provided as expeditiously as possible and not exceed a period of 72 hours from the time that CPD first gained knowledge of the assembly. If the Board chooses by a by a majority vote to conduct an official Board monitoring of a peaceful assembly, it shall, by way of the Executive Director, notify the CPD of the:

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- i. Number of official Board monitors that will participate.
- ii. Any visible identifiers that Board monitors will have (i.e. vests, jackets, arm bands, hats, etc.)
- iii. Length of time Board monitors will be present to monitor.

B. TRAINING. If the Board chooses to engage in this activity, the Executive Director shall ensure that Board members are properly trained on the different aspects of protest monitoring (i.e. legal considerations, tactical considerations, etc.)

C. BRIEFING. Upon receiving notification of Board's interest to monitor a peaceful assembly, the CPD shall coordinate with the Executive Director to provide a briefing of the CPD tactical plans. The briefing shall be conducted outside of the public meeting requirements and the Board shall be required to exercise the VFOIA exemption for *tactical plans* to receive any information regarding the CPD's peaceful assembly tactical plans.

D. DEBRIEFING AND REPORTING. The Board shall publicly debrief on its observations in its regularly scheduled meeting occurring immediately after the assembly. The Board shall make public a report of its observations at the subsequent regular meeting (occurring after the debrief meeting).

ARTICLE 30

REVIEW OF ANNUAL POLICE EXPENDITURES

As authorized in §2-463, during the City Manager's preparation of a proposed City budget, the Budget Office shall provide the Board with annual expenditure estimates and future year projections for the Department, itemized to the same level of detail as provided to the City Manager. The estimates shall be presented to the Board at the same time they are presented to the City Manager. The Board may review the estimates and may make budgetary recommendations to the City Manager and/or to the City Council during the annual budget process.

A. NOTIFICATIONS. The Budget Office will provide relevant updates to the Board related to planned police expenditures in accordance with its published budget development timeline. The Board shall receive the Departmental Budget Request for the following fiscal year not later than November of the previous calendar year.

B. RECOMMENDATIONS. The Board shall provide comments and recommendations to the City Council not later than February prior to the beginning of the next fiscal year. Prior to submission of any recommendations. The Board shall ensure it has met with a CPD representative to directly address any questions, comments, or concerns of Board members. Formal Board recommendations shall be included as an addendum to the City Manager and/or to the City Council during the annual budget process.

ARTICLE 31

COMMUNITY ENGAGEMENT

As authorized in §2-465, the Board and the Executive Director shall engage in community outreach to seek the assistance and input of community members. At least twice a year, the Board shall host public community listening sessions to discuss policing matters of pressing public concern, including the impacts of local policing on historically disadvantaged communities that currently experience or traditionally have experienced disparate policing.

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ARTICLE 32

EFFECTIVE DATE OF REGULATIONS

These Articles shall take effect immediately upon approval by the City Council.

ARTICLE 33

DEFINITIONS

ARTICLE 34

CODE OF ETHICS²

A. Preamble

Civilian oversight practitioners have a unique role as public servants overseeing law enforcement agencies. The community, government, and law enforcement have entrusted them to conduct their work in a professional, fair and impartial manner. They earn this trust through a firm commitment to the public good, the mission of their agency, and to the ethical and professional standards described herein.

The standards in the Code are intended to be of general application. It is recognized, however, that the practice of civilian oversight varies among jurisdictions and agencies, and additional standards may be necessary. The spirit of these ethical and professional standards should guide the civilian oversight practitioner in adapting to individual circumstances, and in promoting public trust, integrity and transparency.

B. Personal Integrity

Demonstrate the highest standards of personal integrity, commitment, truthfulness, and fortitude in order to inspire trust among your stakeholders, and to set an example for others. Avoid conflicts of interest. Conduct yourself in a fair and impartial manner and recuse yourself or personnel within your agency when significant conflict of interest arises. Do not accept gifts, gratuities or favors that could compromise your impartiality and independence.

C. Independent and Thorough Oversight

Conduct investigations, audits, evaluations and reviews with diligence, an open and questioning mind, integrity, objectivity and fairness, in a timely manner. Rigorously test the accuracy and reliability of information from all sources. Present the facts and findings without regard to personal beliefs or concern for personal, professional or political consequences.

D. Transparency and Confidentiality

Conduct oversight activities openly and transparently providing regular reports and analysis of your activities, and explanations of your procedures and practices to as wide an audience as possible. Maintain the confidentiality of information that cannot be disclosed and protect the security of confidential records.

E. Respectful and Unbiased Treatment

² The Code of Ethics was developed by the National Association of Civilian Oversight of Law Enforcement (NACOLE.)

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Treat all individuals with dignity and respect, and without preference or discrimination including, but not limited to: age, ethnicity, citizenship, color, culture, race, disability, gender, gender identity, gender expression, housing status, marriage, mental health, nationality, religion, sexual orientation, socioeconomic status, or political beliefs, and all other protected classes.

F. Outreach and Relationships with Stakeholders

Disseminate information and conduct outreach activity in the communities that you serve. Pursue open, candid, and non-defensive dialog with your stakeholders. Educate and learn from the community.

G. Agency Self-examination and Commitment to Policy Review

Seek continuous improvement in the effectiveness of your oversight agency, the law enforcement agency it works with, and their relations with the communities they serve. Gauge your effectiveness through evaluation and analysis of your work product. Emphasize policy review aimed at substantive organizational reforms that advance law enforcement accountability and performance.

H. Professional Excellence

Seek professional development to ensure competence. Acquire the necessary knowledge and understanding of the policies, procedures, and practices of the law enforcement agency you oversee. Keep informed of current legal, professional and social issues that affect the community, the law enforcement agency, and your oversight agency.

I. Primary Obligation to the Community

At all times, place your obligation to the community, duty to uphold the law and to the goals and objectives of your agency above your personal self-interest.

ARTICLE 35

COMPLAINTS AGAINST BOARD MEMBERS

A. The purpose of this section is to provide procedures for filing and processing complaints against Board Members in a timely, transparent, and consistent manner.

B. Filing a Review Request

- i. Any resident can file a complaint against a Board Member for a violation of the Code of Ethics. The Board Member Complaint shall be filed with the Executive Director of the Board the same way they can file a police misconduct Complaint (see Article 9).
- i. A complainant must include in the Board Member Complaint Form (or in a statement of their own formatting) the reason(s) for the Board Member Complaint.
- ii. Upon receipt of a Board Member Complaint, the Executive Director will draft and send a letter to the complainant acknowledging receipt of the Board Member Complaint and delineating next steps.
- iii. The Executive Director may seek to appoint a subcommittee of no fewer than two disinterested individuals to review the Board Member Complaint (Board Member Complaint Subcommittee or

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Subcommittee). The Executive Director will consider enlisting members of the City of Charlottesville Human Rights Commission or City of Charlottesville staff.

C. Board Member Complaint Subcommittee Review

- i. The Board Member Complaint Subcommittee will perform a thorough review of the allegations of the complaint.
- ii. The review by the Subcommittee may include an interview of the complainant, the Board Member(s) that are referenced in the complaint and may consider such additional information the Subcommittee deems necessary to complete the review. The Executive Director shall provide any administrative and functional support to the Subcommittee to carry out their duties. Any public meetings will comply with VFIOA public meeting requirements.
- iii. Upon completion of its review, the Board Member Complaint Subcommittee will draft and send a report to the City Council Liaison to the Board, the Executive Director, the Board, and the complainant detailing the findings and recommendations of the Subcommittee.
- iv. The Subcommittee Report shall include a summary of the circumstances of the incident(s) of alleged Board Member misconduct, the evidence related to whether there was any misconduct, and any suggested findings related to each allegation. The preponderance of the evidence standard shall be used to make determinations concerning Board Member misconduct allegations.

D. Board Review of the Board Member Complaint Subcommittee Report

- i. Upon publication of the Board Member Complaint Subcommittee Report, the Executive Director, in consultation with the Chair, will prepare and post an appropriate notice of when the Board will consider the Board Member Complaint Subcommittee Report (Subcommittee Report). The Board shall endeavor to include the discussion at the next Business Meeting but may delay the discussion until the subsequent Business Meeting depending on the activity on the agenda.
- ii. When considering a Subcommittee Report, the Chair will invite the Board Member Complaint Subcommittee to present and summarize its findings to the Board.
- iii. Opening the deliberations, the Chair will encourage a full and frank discussion of the issues raised in the Board Member Complaint. The Board will be free to ask Board Member Complaint Subcommittee questions about its review and findings.

E. Board Findings

- i. After deliberations are completed, a majority of the disinterested Board Members must vote on (1) its conclusions about the Board Member Complaint and (2) its recommendation to the City Council about a fair disposition of the Board Member Complaint.
- ii. The Executive Director will draft and send correspondence informing the complainant of the Board's Findings.

F. The Board Member Complaint Final Report

- i. The Board may vote to: concur with the Subcommittee; not concur with the Subcommittee (in which case the Board may make recommendations to the City Council concerning disposition of the Board Member Complaint); or find that the investigation is incomplete or otherwise unsatisfactory and provides a detailed written explanation of the basis for such finding.
- ii. The Board's vote will be memorialized in a Board Member Complaint Final Report (Final Report) drafted by the Board.
- iii. The Chair will circulate the draft of the Final Report for comment with the Agenda for the meeting following the Board Member Complaint deliberation.

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- iv. The Board will discuss and vote to approve the Final Report.
- v. Upon certification through Board vote, the Executive Director will send the Final Report to the City Council and the Complainant.

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